

February 8, 2024

VIA E-MAIL

Jonathan Lait, Director of Planning and
Development Services
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301
E-Mail:Jonathan.Lait@CityofPaloAlto.org

Nishita Kandikuppa
Associate Planner
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301
E-Mail: Nishita.Kandikuppa@CityofPaloAlto.org

Re: **CUP Application – 23PLN-00304**

Applicant: Palo Alto Fit, LLC

Location: 310-320 California Avenue

Dear Director Lait and Associate Planner Kandikuppa:

Our law firm has been engaged to represent the current owner of the property at 310 – 320 California Avenue in Palo Alto, PA California, LLC, and the CUP applicants PA Fit, LLC (Nina Nguyen and Mirco Horst, managing members) in connection with this application for issuance of a Conditional Use Permit. It appears that City action on this application has been unnecessarily “deferred” and delayed – based on the omission or non-disclosure of important information by those who have opposed the application.

As you are probably already aware, the subject property was used as a café/coffee shop (dba “Printer’s Café”) for many years by a tenant in that space, Mr. Ghafouri. He apparently built a devoted following of customers, some of whom have apparently communicated with the City in response to our clients’ recent application for a new CUP. The application for a new CUP contemplates the continued use of that property for the same purpose, i.e., as a café/coffee shop – very similar to what has operated at this location for the past few years, but under new management.

However, the City Staff and those folks who have expressed opposition to the CUP application, may not be aware of critical information: the current tenants of 320 California Avenue (Shaldon Enterprises, Inc., Mr. Al Ghafouri and Donna Ghafouri), approached the property owners last year and specifically requested that they be allowed to get out of their lease and requested the early termination of the existing lease.

The owners agreed to Mr. Ghafouri’s request, and even agreed to his request for rent reduction.. Mr Ghafouri further requested a specific early termination date of no later than April 6,

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2024, and agreed to voluntarily vacate the premises by that date, leaving them “broom clean.” At Mr. Ghafouri’s request, the parties entered into a written agreement in August 2023, confirming the tenant’s request for the early termination of the lease in April 2024. I will gladly provide you with a copy of the written Lease Termination Agreement if you request.

It is important for the City -- and the folks who have apparently asked the City to take some action on the CUP to somehow allow Mr. Ghafouri to continue to occupy the site – to realize that he has already agreed to terminate his lease and voluntarily surrender occupancy of the property no later than April 6, 2024..

Our clients’ pending CUP application is separate from and unrelated to the status of the lease with Mr. Ghafouri. That lease will be over and terminated on or about April 6, 2024 -- -- regardless of what happens with our clients’ pending CUP application. It is unfortunate that so much letter-writing has been misdirected to the City, which should not let itself become involved in what appears to be a simply private lease issue.

Accordingly, Mr. Ghafouri and his supporters should recognize and accept the fact that opposing or trying to delay the CUP application is not the way to try to restore or reinstate Mr. Ghafouri as a tenant at these properties. To the contrary, such actions simply impede and delay our clients’ efforts to improve the properties so as to be able to continue to provide the types of great coffee, food, and ambience that the community has long enjoyed at this location. Their CUP application is simple and straightforward, and does not involve significant changes to the structure, the surrounding property, or the continued lawful and conditionally-permitted use of the property. It does not meet any of the Code criteria (PAMC § 18.40.170) for deferral of Director’s Action.

We respectfully request City Staff to reconsider the unfounded and hasty decision to “defer the Director’s Action.” It appears that the decision to defer the Director’s action was based on the misleading failure to disclose to City Staff (or to the public) the dispositive facts regarding the imminent – and voluntary -- termination of Mr. Ghafouri’s lease. Neither the City Staff nor the public should act under the misconception that the delay or denial of the CUP approval would somehow prevent the already-agreed termination of the lease.

We again request that the City reconsider its previous action on this application in light of the true facts regarding the lease expiration, and restore this matter for timely Staff-level review of a CUP under the standard City Code procedures. There is no ‘good cause’ to do otherwise.

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Please contact the undersigned if you would like a copy of the Lease Termination Agreement, or other information – or if you would like to discuss our requests. Thank you for your consideration.

Very truly yours,

RUTAN & TUCKER, LLP



David P. Lanferman

DPL:cc

cc: Nina Nguyen, Mirco Horst @ Palo Alto Fit, LLC
Laura Roberts

<Nishita.Kandikuppa@CityofPaloAlto.org>; Yang, Albert <Albert.Yang@CityofPaloAlto.org>
Subject: RE: CUP Application – 23PLN-00304 / Applicant: Palo Alto Fit, LLC / Location: 310-320 California Avenue

Hello Ms. Gerhardt –

Just a brief note to follow up on the voicemail message left at your office earlier today.

We appreciate your (really quick) reply to our letter regarding this CUP application, and wanted to thank you for the very good points you made in your reply.

I would welcome a chance to have a brief phone call with you early next week just to get a better understanding of a few questions. Please let me know your availability, or feel free to call me most any time Monday or Tuesday.

Thanks again -- Dave

David P. Lanferman

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From: Gerhardt, Jodie <Jodie.Gerhardt@CityofPaloAlto.org>

Sent: Thursday, February 8, 2024 6:49 PM

To: Castro, Clarissa <ccastro@rutan.com>; Lanferman, David <DLanferman@rutan.com>; mircorhorst@me.com; Nina Nguyen <nina@paloaltofit.com>; Laura Roberts <laura@koarch.com>

Cc: Lait, Jonathan <Jonathan.Lait@CityofPaloAlto.org>; Kandikuppa, Nishita <Nishita.Kandikuppa@CityofPaloAlto.org>; Yang, Albert <Albert.Yang@CityofPaloAlto.org>

Subject: RE: CUP Application – 23PLN-00304 / Applicant: Palo Alto Fit, LLC / Location: 310-320 California Avenue

Dear Mr. Lanferman,

Thank you for your letter dated February 8, 2024 regarding the CUP application at 310 California Avenue. I'm writing to you at the Director's request to address your concerns.

While we acknowledge your position that the CUP process is separate from private lease negotiations, we respectfully disagree that the project doesn't meet the criteria for consideration under PAMC 18.40.170. This section grants the Director discretion to "float up" any project he

deems appropriate. The Director believes this project qualifies due to the significant community interest.

I would also like to explain that this float up process will likely be quicker for the applicant. Under the standard CUP process, staff would draft a tentative decision letter followed by a 14-day appeal period, likely leading to an appeal and hearings before the Planning and Transportation Commission (PTC) and City Council. By utilizing the float-up process, we bypass these middle steps and present the project directly to the PTC and Council, thereby providing an expedited decision.

Please let Nishita and I know if you have additional questions.

Sincerely,



Jodie Gerhardt (she/her), AICP

Manager of Current Planning
Planning and Development Services Department
(650) 329-2575 | jodie.gerhardt@cityofpaloalto.org
www.cityofpaloalto.org

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From: Castro, Clarissa <ccastro@rutan.com>

Sent: Thursday, February 8, 2024 2:35 PM

To: Lait, Jonathan <Jonathan.Lait@CityofPaloAlto.org>; Kandikuppa, Nishita <Nishita.Kandikuppa@CityofPaloAlto.org>

Cc: Lanferman, David <DLanferman@rutan.com>; Mirco Horst <mircohorst@me.com>; Nina Nguyen Main <nina@paloaltofit.com>; laura@koarch.com

Subject: CUP Application – 23PLN-00304 / Applicant: Palo Alto Fit, LLC / Location: 310-320 California Avenue

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Dear Director Lait and Associate Planner Kandikuppa:

Attached please find written correspondence from Mr. Lanferman in regards to the above-referenced matter.

Best,

Clarissa Castro

Legal Secretary

455 Market Street, Suite 1870 | San Francisco, CA 94105

O. (650) 263-7900 | D. (650) 320-1500 x7725

ccastro@rutan.com | www.rutan.com



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From: [Mirco Horst](#)
To: [Kandikuppa, Nishita](#)
Cc: [Laura Roberts](#); nina@paloaltofit.com
Subject: Re: 310 California Avenue - 23PLN-00304 - Public Comments
Date: Thursday, November 30, 2023 6:31:09 PM

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hi Nishita,

Thank you for forwarding the public comments. However, the commenters are presumably unaware that Printers Cafe voluntarily shortened its lease earlier this year. The lease was originally scheduled to terminate on October 31, 2025. The parties mutually agreed to reduced rent during the Covid pandemic and for a period of time afterward, but when the original rent was to be reinstated, Printers Cafe indicated a preference to shorten the lease term in exchange for a reduced rent for that shortened term. The new lease termination date, as requested by Printers Cafe, is April 6, 2024.

We also note that there is no shortage of locations to enjoy a cappuccino or other fine coffee on California Avenue: ZombieRunner, Backyard Brew, Joanie's, La Boheme, Anatolian Kitchen, and Cafe Pro Bono are among the daytime options, with a few others, such as Terun and Protege, providing evening options. Similarly, a glass of wine is available at many CalAve venues, such as Calave, Vin Vino, and virtually all of the restaurants in the three block stretch from Park Blvd. to El Camino.

We appreciate your consideration of this response. Please let us know if you require any further information.

Best regards,
Nina & Mirco

On Nov 28, 2023, at 4:29 PM, Kandikuppa, Nishita
<Nishita.Kandikuppa@CityofPaloAlto.org> wrote:

Hi Laura,

As mentioned over the phone earlier, I have attached a PDF consolidating the public comments I have received for the 310 California CUP application. Printer's Café is a popular spot for many residents and local leaders which explains the volume of emails I have been receiving. Please review the concerns with the property owners (copied on this email) and get back to me on whether Printer's Café will be renewing their lease. I must have this in writing so I can share it with the concerned neighbors/residents.

It is also important to note that for CUP applications, anybody in the public can appeal for a Director's Hearing, not just adjacent neighbors. This is a provision in the [Palo Alto Municipal Code Section 18.77.060 \(c\)\(4\)](#). This business is beloved by the community so if Printer's Café were to move out, it could cause delays in the project.

Please let me know if you have any questions!

Best,
Nishita

<image001.png> **Nishita Kandikuppa**
Associate Planner
Planning and Development Services Department
(650) 838-2806 | nishita.kandikuppa@cityofpaloalto.org
www.cityofpaloalto.org

<image002.png>

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<PublicComments1_310California.pdf>